

HOUGHTON COUNTY INDUSTRIAL AIRPARK

Adopted May 23, 1998

RESTRICTIONS ON USE AND OCCUPANCY

The Houghton County Airport Committee, in order to provide for the most beneficial development of the lands of the Houghton County Industrial Airpark for the purposes hereinafter stated, and to prevent such use thereof as might tend to diminish the value and operation of the Houghton County Memorial Airport, does hereby adopt, declare and constitute the following restrictions, conditions and limitations upon said land which shall be covenants of conveyance, and shall be binding upon the purchaser or purchasers of any part, parcel, tracts or lots of said land, and his or their heirs, successors, assignees, devisees and administrators, hereinafter called the Grantee.

1. PURPOSES

These restrictions are imposed upon the property to insure proper use and appropriate development of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to guard against the erection thereon of structures built of improper or unsuitable material; to insure adequate and reasonable development of said property; to encourage the erection of attractive improvements thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvements on building sites; to secure and maintain proper setbacks from streets; and in general to provide adequately for a high type and quality of improvement in said property and for the orderly development and efficient maintenance thereof.

2. INTENDED USE

A. The real property described in this Declaration in Exhibit A hereto attached and made a part hereof shall be used only for industrial, manufacturing, warehousing, distribution, research or development purposes. General and professional office use will be permitted when such use requires airport access and orientation. The property shall not be used for residential purposes, except those required on the plant premises for management, watchmen or police purposes.

The retail sale of non-industrial merchandise or services is prohibited, excepting at restaurant, motel or automobile service facility approved for public use by the Airport Committee. The retail sale of food, Beverages and other such convenience items to occupants and employees is permitted so long as these items are not offered for sale to the general public.

B. The Grantee agrees it will use said property in compliance with the laws of the County of Houghton, State of Michigan, and the United States.

3. RESTRICTIONS TO PROTECT THE USE OF THE HOUGHTON COUNTY MEMORIAL AIRPORT

A. The Houghton County Airport Committee reserves unto itself, its successors and assignees, for the use and benefit of the public, all right of flight for the passage of aircraft in the airspace above the surface of the real property herein described, together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft, now known or hereinafter used, for navigation of, or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the Houghton County Memorial Airport.

B. The property herein conveyed shall be used as so to prevent any interference with landing or taking off of aircraft, maintenance, development or operation of the Houghton County Memorial Airport or otherwise constitute a hazard to aircraft.

C. The use and occupancy of the herein conveyed premises will be such that there will not be installed, used, or permitted thereon, lights, unshielded welding arcs, or smoke which would impair visibility of pilots or aircraft landing, taking off, or maneuvering in the vicinity of the airport, or render it difficult for such pilots to distinguish landing area lights of the airport or equipment which would cause interference with electrical or electronic air navigation or landing aids.

D. No building shall exceed 50 feet in height. Any constructed objects which exceed fifty (50) feet above ground elevation shall be painted and lighted in accordance with Federal Aviation Administration Specification AC 70/7460-1.

4. COMMENCEMENT OF CONSTRUCTION

A. The Grantee agrees to commence construction in good faith within one (1) year after the date of Purchase of property covered by this instrument and complete construction substantially in accordance with plans and specifications as approved by the Airport Committee or its appointed agent within eighteen (18) months from the date of such purchase, provided that in the event the Grantee is prevented from commencing or completing construction within the time herein provided, by cause or causes beyond its control, the period allowed for commencing or completing construction may be extended for a period equal to the time lost as a result of such cause or causes beyond its control; at the discretion of the Airport Committee.

Failure to comply with these provisions shall give the Airport Committee the right to repurchase the property at a price agreed upon between the parties, and in no event to exceed the purchase price less the amount of any outstanding mortgages or other encumbrances against the property and all cost in connection with the repurchase or reconveyance thereof.

B. The Airport Committee agrees that sewer and water utilities will be provided to any lot prior to or at the time of sale.

5. RESALE RIGHTS

A. No purchaser of unimproved property shall sell or lease said property to any third party without the written consent of the Houghton County Airport Committee. In the event the purchaser of unimproved property desires not to proceed with development, the Houghton County Airport Committee, its successors and assigns, retain the option to refund the purchase price less any outstanding mortgages or other encumbrances against the property and all cost in connection with the repurchase or reconveyance, and enter into possession of the land. This section is not intended to prohibit the transfer of said property to a company, real estate, or holding corporation, but such transferee shall take subject to all restrictions herein contained, including this paragraph.

B. Any purchaser of improved property may convey said property to a third party, subject to the conditions outlined in these restrictions and the written approval of the Airport Committee.

6. REQUIRED CONDITIONS

Any building or uses permitted in the Houghton County Memorial Airpark shall comply with the following conditions.

A. CONSTRUCTION AND APPEARANCE

- (1) Buildings constructed on the property shall conform to the standards specified by the County of Houghton Building Codes in effect at the time of such construction. No wooden frame building shall be permitted without the approval of the Airport Committee.
- (2) The exterior material of the front wall and 20 feet of the side walls nearest the front wall, must be Face brick, decorative pre-cast panels, finished metal or plastic panels or equivalent, and designed to provide an attractive facade. Buildings constructed on corner lots shall be considered as having two fronts. When walls other than front and side walls, as described above, are constructed of light weight aggregate or concrete block, unless such walls are finished in stucco, granite or equivalent, the joints shall be tooled or pointed and such walls shall be rubbed down and covered sufficiently with standard waterproofing paint.
- (3) All distribution and service wires, pipes, and utilities shall be located underground.
- (4) No construction of any kind shall be commenced upon any of the lots or parcels of land included within the property covered by these restrictions until complete plans and specifications therefor, showing the nature, kind, shape, size, construction materials, color scheme and the location of each, and any grading and drainage plans, shall have been first submitted to and approved in writing by the Airport Committee. The Airport Committee shall have the right to refuse to approve any such plans or specifications, grading plans, material or color scheme that is not aesthetically suitable or in keeping with the state purpose of these covenants.
- (5) In passing upon such plans, specifications, or grading plans, the Airport Committee shall have the right to take into consideration the suitability of the proposed building or other structure to be built on the site upon which it is proposed to erect the same and the harmony as planned in view of the outlook from the adjacent or neighboring properties.

- (6) In reviewing said plans and specifications, the Airport Committee shall in addition approve or disapprove the proposed location of parking lots, loading and unloading facilities, proposed areas for the storage of materials, location of driveways and other means of access and landscaping plans in order that said Industrial Airpark shall develop in conformity and harmony with other existing structures and uses in the Subdivision, and that ultimately the Industrial Airpark will develop into an efficient and attractive park.
- (7) In the event that the Airport Committee has failed to approve and disapprove said plans and specifications within sixty (60) days after they have been submitted, the approval of the Airport Committee shall not be required; provided; however, that lack of approval by the Airport Committee shall not waive any express restriction contained herein.
- (8) The Airport Committee, its successors and assigns, shall not be liable in damages to any person submitting plans for approval or to any owner or owners of land covered by this instrument by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees arising out of or in connection with the approval or disapproval or failure to approve any plans or specifications.

B. SETBACKS

- (1) No building or structure shall be located within 50 feet of the public right-of-way of the Airport Entrance Road, or within 20 feet of the public street right-of-way along other streets and roads within the Airpark.
- (2) All buildings or structures shall be set back a minimum of 20 feet from all interior side or rear property lines, except that the Airport Committee may grant permission to construct a building or structure closer to the rear property line where it is adjacent to a railroad siding or airplane taxiway which will serve said building or structure.

- (3) Buildings located on the same site shall be separated from other buildings by at least 20 feet.
- (4) Any lot which is bounded on two or more sides by a public street, for the purposes of these restrictions shall be deemed to front on all such streets.

C. MAXIMUM BUILDING COVERAGE

All buildings and structures, or portions thereof, shall not cover more than 40% of the total lot area.

D. STORAGE

All goods, equipment, supplies or other materials shall be stored in completely enclosed buildings except raw materials used in the ordinary course of business and finished or semi-finished products may be located outside of buildings on the rear one-quarter of said property when such storage is contained in bins and/or screened by a wall or fence at least 6 feet in height as may be determined by the Airport Committee or its appointed agent to adequately screen such storage area and material stored from view from outside of the lot boundaries. No waste materials, rubbish, or discarded matter of any kind shall be permitted to be stored in open areas except in containers approved by the Airport Committee and beyond a time reasonably required to arrange for removal.

E. FENCING

All fencing for screening, security or other purposes shall be attractive in appearance and shall be of all metal industrial type fence of galvanized or non-ferrous material, or decorative masonry wall.

F. LANDSCAPING

- (1) Land areas outside the building lines or surfaced parking areas, shall be landscaped and maintained at the expense of the Grantee. Plans for both landscaping and parking areas must be included with the building plans for approval.
- (2) Some of the areas of the Airport are wooded and the Grantee agrees that he will maintain existing trees and wooded areas to the extent that it does not affect the desired development of his buildings or parking area.

G. OFF-STREET LOADING AND UNLOADING

No loading or unloading shall be permitted on any public or private street or road or any other place except as provided in accordance with the following:

Loading and unloading areas shall comply with the requirements of the County of Houghton Zoning Ordinance except that all industrial uses must have a minimum of one (1) loading and unloading area. All loading and unloading docks or provisions for handling freight and materials must be located on the side or rear of buildings. In the case of a corner lot, loading or unloading docks, or provisions for handling freight and materials shall not be permitted on that side abutting a street.

H. OFF-STREET PARKING

- (1) No parking shall be permitted on any public or private street or road or any other place than paved parking areas. Each owner shall be required to provide off-street parking for all their employees, customers and visitors.
- (2) Off-street parking shall not be permitted in the front setback areas which abut a public dedicated road or street, except that not more than twenty-five (25) per cent of such required front or side setback area may be used for customer or visitor parking.
- (3) All driveways and parking areas shall be surfaced with concrete, asphalt or other bituminous material and drained.
- (4) Off-street parking areas shall be used for parking of passenger vehicles or commercial and other vehicles incidental to the operation conducted on the property.
No commercial repair work or any service of any kind shall be conducted on such parking areas.

7. SIGNS

- A. Billboard signs and posters are prohibited. Other advertising signs are also prohibited except for those signs which provide for direction of traffic or which advertise the property owners business or product.
- B. The total aggregate amount of signs shall be no more than one (1) square foot for each five (5) front feet of property or three (3) square feet for each front of building, whichever is greatest.
- C. All signs, except standard direction signs for traffic, shall be wall signs firmly attached to the outside wall of the principal building and no sign shall extend out more than one (1) foot nor up more than one (1) foot above the roof line of the building.
- D. No sign shall be lighted by means of flashing or intermittent illumination.

8. DIVISION OF LOT AND MINIMUM LOT FRONTAGE

- A. No parcel or lot shall be divided without approval of the Airport Committee or its appointed agent.
- B. No lot shall have less than 200 feet of frontage at the building line.
- C. No lot shall be divided so as to provide less depth than shown on the approved plat.

9. PERFORMANCE STANDARD

No industry or other business shall be established, maintained, or permitted on said property which produces objectionable noxious, unhealthy or harmful smoke, dust, noise, odors, fumes, vibration or waste. Determination of whether an industry or business is objectionable for any of the above reasons shall be based on existing laws and ordinances and the discretion of the Airport Committee or its appointed agent.

10. MAINTENANCE OF PROPERTY

- A. All owners of property in this subdivision shall maintain all buildings, landscaping, fences, drives, parking lots, or other structures located upon said property in good and sufficient repair and shall keep such premises painted, lawns cut shrubbery trimmed, windows glazed and otherwise maintain the property in an aesthetically pleasing manner and in condition so as to comply in all respects to all government, health and police requirements.
- C. Any structure, planting or driveway or parking lot service which is damaged by the elements, by vehicles or from fire or any other cause shall be repaired as promptly as the extent of damage will permit.
- C. Buildings within this subdivision which should happen to be vacant for any reason, shall be kept locked and the windows shall be glazed in order to prevent the entrance thereto by vandals.
- D. In the event of the violation of any of the restrictions set forth in this paragraph, the Airport Committee or its successors of interest shall have the right to go upon the property to eliminate nuisance conditions, to mow lawns or trim shrubbery or do anything necessary to maintain the Aesthetic standard of the subdivision for the benefit of other property owners and the reasonable or minimal cost of any such work shall be a lien upon the property involved which lien shall be enforceable in the manner provided by law.
- E. Each lot owner shall pay the Airport Committee or its successors in interest an annual maintenance charge which charge shall become due and payable annually in advance on the first day of January of each year, beginning with January 1, 1998. The maintenance fund may be used for improving and maintaining roadways and entranceways to the subdivision, for planting trees and shrubbery and the care thereof within public rights-of-way, for caring for vacant property, or for doing any other thing necessary or advisable in the opinion of the Airport Committee for keeping the property near or in good order.

F. The maintenance charge shall be computed at the rate of One Hundred Dollars (\$100.00), for each acre or part thereof included within the property owned by each lot owner. The amount of The maintenance charge may be adjusted from time to time by the Airport Committee or its successors in interest, as the needs of the subdivision may require, but shall not be increased in Excess of Two Hundred Dollars (\$200.00) per acre or part thereof without the consent in writing of the property owners of not less that fifty-one per cent (51%) of the total area of all lots included within the subdivision.

11. ENFORCEMENT OF RESTRICTIONS

The Airport Committee herein, its successors and assignees, may enforce these restrictions by restraining order or may prosecute at law or in equity a suit for damages or other remedy which the Airport Committee, its successors and assignees, may have.

12. INVALIDATION

Invalidation of any of the foregoing conditions, restrictions or covenants by the court of competent Jurisdiction in no way affects any of the other provisions which shall remain in full force and effect.

13. TERMINATION

A. These restrictions shall be covenants running with the land and shall be binding upon the Grantee, its successors and assignees and shall be in full force and effect for twenty-five (25) years from January 1, 1998, except that the restrictions covered in Paragraph 3 shall be in effect as long as required for the operation of the Houghton County Memorial Airport or its successors and assignees.

B. After said twenty-five (25) year period these restrictions shall be automatically extended for successive periods thereafter of five (5) years each, unless the owners of three-quarters of the acreage in the Industrial Airpark may, by written declaration, signed and acknowledged by them and recorded in the deed records of the Houghton County Register of Deeds Office, alter, amend, or extend such restrictions and this right shall exist as long as the owners of the majority of the acreage so desire.

Dated this 28th of May 1998

Signed in the presence of:

Witness: Sharon A. Murphy

Witness: _____

HOUGHTON COUNTY AIRPORT COMMITTEE

By: Joseph A. Thomas
CHAIRMAN

By: Robert D. J. Moore
SECRETARY